Directions for adherence to General Judicial Principle in service matters.

Government of Maharashtra

Law and Judiciary Department

Government Circular No.: 681-2016/Misc./E

Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-400032.
Date: 28 February, 2017

CIRCULAR

1. The Hon'ble Maharashtra Administrative Tribunal, Mumbai, vide order dated 14.12.2016 in O.A. Nos. 59, 61 and 90 of 2016, has expressed displeasure over rejection of the claim of the applicants therein, for grant of Time Bound Promotion on the ground that the applicants had declined to accept temporary promotions, though in similar matters Hon'ble Tribunal has allowed the OAs and order of the Tribunal has attained finality.

2. The Hon'ble Tribunal, in Para 8 of aforesaid Judgment, has observed as under:-

> ***"If a principle of general applicability is capable of being culled out from a particular pronouncement of this Tribunal, then similarly placed employees, though not before the Tribunal should be given the benefit thereof without actually moving this Tribunal for relief. If on the other hand, the relief is person specific, then of course, this direction will not apply."***

Therefore, the Hon'ble Tribunal has directed the undersigned to inform all the concerned departments regarding applicability of general judicial principle as explained in Para 8 of the aforesaid Judgment.

3. The Hon'ble Supreme Court in the case of ***State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava*** reported in ***2015 (1) SCC 347*** has laid down similar principle, thus:

> ***"Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently".***

4. In view of the above, all the departments are hereby directed to take action according to the above directions given by the Hon'ble Maharashtra Administrative Tribunal, reiterating the legal position expounded by the Hon'ble Supreme Court.

5. The aforesaid directions be also brought to the notice of the offices under the administrative control of the departments.

This Government Circular of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference no. for this is 201702281752472812. This order has been signed digitally.

By order and in the name of the Governor of Maharashtra.

Swadheen S Kshatriya

Digitally signed by Swadheen S Kshatriya
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(Swadheen Kshatriya)
Chief Secretary
Government of Maharashtra

<u>Copy forwarded to:</u>

1. The All Additional Chief Secretaries, Maharashtra State, Mantralaya, Mumbai.
2. The All Principal Secretaries/Secretaries, Mantralaya, Mumbai.
3. The Joint Secretary, Law and Judiciary Department, 'A Branch/ 'M' Branch/ Nagpur/Aurangabad.
4. The Under Secretary (Law), Office of the Chief Secretary, Mantralaya, Mumbai.
5. The Government Pleader, High Court (A.S), Writ Cell, Mumbai.
6. The Government Pleader, High Court (O.S), Mumbai.
7. The Government Pleader, High Court, Nagpur, Aurangabad.
8. The Chief Presenting Officer, Maharashtra Administrative Tribunal, Mumbai/Aurangabad/Nagpur.